

All the VOTES, ORDERS,
IN THE
House of Commons,

Both in the Late, and Present Parliament, touching
The E A R L of D A N B Y.

Jovis, Decemb. 19. 1678.

Resolved, That there is sufficient Matter of Impeachment against the Lord Treasurer.
Ordered, That a Committee be appointed to draw up Articles of Impeachment against the Lord Treasurer: And the said Committee was to receive any further Informations, or Evidence against him.

Sabbati 21 Decemb. 78.

Mr. Williams Reports from the Committee, That they had Agreed upon several Articles of Impeachment against the Lord Treasurer, which were severally put to the Question, and Agreed upon by the House. And

Ordered, That the said Articles of Impeachment be Ingross'd: And that a Clause of saving Liberty to Exhibit any further Articles, be Inserted. And that he be sequestred from Parliament, and Committed to safe Custody. And *Sir Henry Capel* to carry up the Articles on Monday next.

Lune 23 Decemb. 78.

The Clause of saving Liberty, &c. was then brought in, and ordered to be ingross'd with the other Articles.

Post Meridiem, 23 Decemb. 78.

Sir Henry Capel acquaints the House, That he had attended the Lords with the Articles of Impeachment against the Lord Treasurer, and had delivered the same into the hands of the Lord Chancellor.

Jovis, 20 March 78.

Resolved, That a Message be sent to the Lords, to put them in mind of the Impeachment of High Treason Exhibited against *Thomas Earl of Danby*, in the Name of the Commons, and to desire that he may be forthwith committed to safe Custody.

Resolved, That it be referred to the Committee of Secrecy, to draw up further Articles against *Thomas Earl of Danby*.

Sabbati, 22 March, 78.

Resolved, That a Message be immediately sent to re-mind the Lords of the last Message sent them, relating to the Earl of Danby; And to demand, that he may be forthwith Sequestred from Parliament, and committed to safe Custody.

Mr. Powle Reports from a Conference, That the Duke of Monmouth spake at the said Conference, as followeth;

I am commanded by the Lords to acquaint you, That their Lordships having taken into Consideration Matters relating to the Earl of Danby, together with what His Majesty was pleased to say upon that Subject, have Ordered, That a Bill be brought in, By which Thomas Earl of Danby may be made for ever incapable of coming into his Majesties Presence, and of all Offices and Employments; and of receiving any Grants or Gifts from the Crown, and of Sitting in the House of Peers. The Consideration of this Report adjourned till Monday next.

A Committee appointed to repair to the Lord Chancellor, and other Offices, and enquire into the manner of suing forth the Pardon of *Thomas Earl of Danby*, and make their Report to the House.

Lune 24. March 78.

Sir Francis Winnington reports from the Committee appointed to enquire into the Manner of suing forth the Earl of Danby's Pardon. And

That they had attended the Lord Chancellor, and made Search in all Offices, concerned in passing the Kings Letters, Patents, and had agreed upon a Report. *viz.*

They went to *Mr. Secretary Coventry's* Office, and could find no entry of any such Pardon there. And *Mr. Secretary* declared, he knew nothing of Passing the Pardon.

They went likewise to the Lord *Sunderland's* Office, and *Mr. Bridgman*, his Secretary, assured them there was no Entry of any such Pardon in that Office.

The Committee not being satisfied, resolved to attend the Lord *Sunderland*, but he was pleased to send to the Chair-man to inform the Committee, that he knew nothing of the Pardon.

From thence they went to the Offices of Signet and Privy Seal. And had there an account that there was there no Entry or Memorial of any such Pardon.

From thence they went to the Lord Privy Seal, and he told them that he never heard any word of the Pardon, untill the day the King was pleased to mention it in the house of Lords; and further, that if any such Pardon had come to him, he would very well have considered it, before he would have passed it.

After this the Committee attended my Lord Chancellor, who acquainted them, that as to the Pardon, he never advised, drew, or altered one Word of it. And that the Truth of the Fact was thus; That my Lord Treasurer delivered it to him, and being asked by the Committee, whether the Pardon extended to Impeachments? His Lordship answered, that it did: and had these General Words; Of all Treasons and Crimes whatsoever. Together with the Words, *Omnia & Omnimoda Indictamenta Impetitiones*. And those other words, *Licet Indictatus vel non Indictatus, Impetitus, vel non Impetitus, &c.* And this was to extend to the 27th of February last, and did bear date the first of March instant.

My Lord Chancellor further declared, That my Lord Treasurer desired to have the Pardon passed with all the privacy in the World; and the reason he gave was, because he did not intend to make use of it, but stand upon his Innocency, except false Witnesses should be produced against him; and then he would make use of it at the last extremity.

After this, my Lord Chancellor said, he writ a Letter, wherein he took notice to his Lordship, That in the first place the Service of the King was to be considered: And if his Lordship would take his Advice, he thought it was best to let the Pardon pass in the Regular Course, that it might be publicly known; that so it might answer the Ends his Lordship intended: which was to prevent the Re-assuming the Impeachment against his Lordship.

The next day after this Letter was sent, he declared, That he met my Lord Treasurer at the Committee of Foreign Affairs, where he gave my Lord Treasurer the same Advice as he gave in the Letter, which was to dissuade his Lordship.

Thereupon my Lord Treasurer said, that he had acquainted the King with the Contents of his Letter. And that his Majesty did declare, That He was resolved to have it done: which was, to pass the Pardon with all privacy. Suddenly after this, the King commanded my Lord Chancellor to bring the Seal to *White-Hall*: which he did to his own Lodgings. And being there, he laid it on the Table, thereupon his Majesty commanded the Seal to be taken out of the Bag, which his Lordship was obliged to submit unto, it not being in his Power to hinder it: And the King writ his Name on the top of the Parchment. And then directed to have it sealed. Whereupon the Person that usually carried the Purse, offered to seal it, my Lord Chancellor said, that at the very time of affixing the Seal to the Parchment, he did not look upon himself to have the Custody of the Seal. And concluded that he took upon himself to know, that there was no Memorial in any Office whatsoever of this Pardon, from the Secretaries Office, until it came to his Lordship: But that it was a stamp Pardon by Creation.

Resolved, That a Message be sent unto the Lords, to demand Justice in the Name of the Commons of *England*, against *Thomas Earl of Danby*: And that he may be immediately Sequestred from Parliament, and committed to Safe Custody.

Resolved, That an humble Address be made to his Majesty, representing the Irregularity and Illegality of the Pardon mentioned by his Majesty, to be granted to the Earl of *Danby*, and the dangerous Consequence of granting Pardons to any Persons that lye under an Impeachment of the Commons of *England*.

And it is referred to a Committee, to prepare and draw up the same.

The Lords sent a Message. viz.

Mr. Speaker,

WE are commanded by the Lords, to let the House of Commons know, That the Lords taking into Consideration the Message received from the House of Commons on Saturday, that the Earl of *Danby* might be sequestred from Parliament, and put into safe Custody, did this morning upon Debate order, That the Gentleman usher of the black Rod, do forthwith take the said Earl into Custody, and him safely keep till he bring him to the Bar of their House to morrow morning. And their Lordships thought fit to acquaint the House of Commons, That this was done before they received their last Message to that Purpose.

25 March 79. A Message sent from the Lords. viz.

Mr. Speaker, we are commanded by the Lords to acquaint the House that they sent to apprehend *Thomas Earl of Danby*, both to his House here in Town, and to his house at *Wimbleton*, And that the Gentleman usher of the Black Rod had returned their Lordships Answer that he could not be found.

Ordered, That a Bill be brought in to summon *Thomas Earl of Danby* to render himself to Justice by a Day, to be therein limited, or in Default thereof to attain him, and a Committee is appointed to draw up the same.

26 March 79.

A Bill to Summon *Thomas Earl of Danby*, to render himself to Justice by a certain Day, or in Default thereof to be attainted, Was read the first time.

27 March 79. A Message from the Lords. viz.

Mr. Speaker, The Lords have past a Bill, intituled an Act for banishing and disabling *Thomas Earl of Danby*, to which they desire the Concurrence of this House.

A Bill to Summon *Thomas Earl of Danby* to render himself to Justice, or in default thereof to Attain him, was read the first time.

Resolved, That the said Bill be committed, and the Committee to bring in a Clause for discovery of all Trusts relating to the Earl of *Danby*; and that he may be made incapable of receiving any Pardon, but by Act of Parliament, wherein he shall be particularly named.

An engrossed Bill sent from the Lords, entitled an Act for banishing and disabling *Thomas Earl of Danby*, was read the second time.

Resolved, That the Bill be rejected.

April 79.

A Bill for summoning *Thomas Earl of Danby*, to render himself to Justice by a certain Day, or in default thereof, to attain him of High Treason. Was read the third time,

Resolved, That the Bill do pass, and Sir Robert Peyton to carry up the Bill to the Lords for their Concurrence.

April 4. 79.

The Lords desire a Present Conference concerning the Bill sent up against *Thomas Earl of Danby*.

Sir Francis *Winnington* Reports from the Conference, That the Lord Privy Seal said at the said Conference to this Effect, That the Lords chose to deliver back this Bill by Conference, rather than by Message, to preserve a good Understanding, and prevent Debate or Controversie between the two Houses.

The Lords observe that the great Affairs of this Nation, are at a Stand at a time of the greatest Danger and Difficulty that this Kingdom ever laboured under.

That the King hath always in his Reign, inclined to Mercy and Clemency to all his Subjects; Therefore to a King so merciful and compassionate, the first Interruption of his Clemency they did desire should not proceed from the two Houses, pressing the King to an Act of the greatest Security. Therefore have passed the Bill with some Amendments which he delivered.

Resolved,

Resolved, That an humble Address be made to his Majesty to Issue out his Royal Proclamation for the apprehending of *Thomas Earle of Danby*, with the usual Penalties upon such as shall Conceal him. And that his Majesty would be further pleased to give order to the Officers of his Majesties Household that they take care that the said Earle of *Danby* be not permitted to reside within any of his Majesties Pallaces of *Whitehal*, *Somerset-House*, or *St. James's*. And a Committee is ordered to draw up the same.

Apr. 7. 79. The House considered of the Amendments made by the Lords to the Bill of Attainder of *Thomas Earle of Danby*.

The Second, Third and Fifth Amendments were agreed to.

The First, Fourth, Sixth, Seventh, Disagreed to.

And a Conference thereupon ordered with the Lords.

Apr. 8. 79. *Mr. Powle* Reports the Reasons why the Commons disagreed to the Lords Amendments, which are as followeth.

The Addition to the Title doth shew that the Amendments made by your Lordships to the Bill, do wholly alter the Nature of it, and from a Bill of Attainder have converted it into a Bill of Banishment, which the Commons cannot consent to for these Reasons,

1. That Banishment is not the Legal Judgment in case of high Treason. And the Earle of *Danby* being Impeacht by the Commons of high Treason, and fled from Justice, hath thereby confest the Charge, and therefore ought to have the Judgment of high Treason for his Punishment.

2. That Banishment being not the Punishment the Law inflicts upon those Crimes; The Earle of *Danby* might make use of this Remission of his Sentence, as an Argument, That either the Commons were distrustful of their Proofs against him, or else that the Crimes are not in themselves of so high a Nature as Treason.

3. That the Example of this would be an Encouragement to all Persons that should be hereafter Impeached by the Commons, to withdraw themselves from Justice, which they would alwaies be ready to do if not prevented by a Commitment upon their Impeachment, and thereby hope to obtain a more favourable Sentence in a Legislative way, than your Lordships would be obliged to pass upon them in your judicial Capacity.

The Amendments being all in order to those alterations, the Commons do not agree to them for the former Reasons.

A Conference desired of the Lords upon the Amendments made by them to the Bill of Attainder of the Earl of *Danby*.

8. Apr. Post Meridiem, The Lords desire a Conference concerning matters in the Bill concerning the Earl of *Danby*, which was agreed to.

Sr. Francis Winnington Reports from the said Conference, that the Lord *Huntingdon* managed the said Conference which was to the Effect following.

The Lords have desired this Conference with the House of Commons, not so much to argue and dispute as to mitigate and reconcile.

They have already observed that the Debates of this Bill have given too long and too great an obstruction to publick Business, and therefore they desire you to believe that that is the Reason which hath chiefly prevailed with their Lordships, in a matter of this Nature.

And upon this it is, that if a way may be found to satisfy and secure the publique Fears, by doing less then the Bill you have proposed, the Lords do not think it advisable to insist upon the utmost and the most vigorous satisfaction to publique Justice which might be demanded.

To induce you to this Compliance, the Lords do acknowledge that Banishment is so far from being the Legal Judgment in case of high Treason, that it is not the Legal Judgment in any case whatsoever, since it can never be inflicted but by the Legislative Authority.

But they see no reason why the Legislative Authority should always be bound to act to the utmost extent of its Power, for there may be a prudential necessity sometimes of making abatements, and might be of a fatal consequence if it should not be so.

And the Lords to remove all Jealousies of the Presidents of this kind, do declare that nothing which hath been done in the Earl of *Danby's* case shall ever be drawn into Consequence for the time to come, and will so enter it upon their Journal.

And thereupon their Lordships insist upon their Amendments, so far as to exclude all Attainders, and do promise themselves the Commons will in this Point comply with their Lordships, who do again assure them that their Resolutions are grounded only upon their Tendernefs and Consideration of the Publick.

Apr. 9. 79. *Sr. Francis Winnington* Reported the Conference had with the Lords touching the Amendments made by the Lords to the Bill, for the Attainder of *Thomas Earle of Danby*, to which Amendments the Commons did not agree.

The Commons sent a Message to the Lords, to desire a free Conference upon the subject matter of the last Conference.

10. Apr. 79. A free Conference was had accordingly, and the Members that managed the same, are ordered to draw up such Matters as are fit to be entred, that passed at the said free Conference.

Post Meridiem, The Lords desire a present free Conference upon the subject Matter of the last free Conference.

Sr. Francis Winnington Reports the matters of the said free Conference.

12 Apr. 79. *Sr. Francis Winnington* acquaints the House, that in pursuance of their Order, he had drawn up the substance of the matter that was delivered at the last free Conference with the Lords as followeth.

At a free Conference with the Lords, the Lord Privy Seal said, that the Commons might see by the present quick free Conference which the Lords desired, that their Lordships did shew their willingness by using all means possible to Reconcile both Houses, and to come to such an understanding, as to pass the Bill with all expedition.

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Lordships would leave it to the Commons, so that they run not to the absolute Obstruction of the Lord Impeacht: And the Lord Privy Seal took notice, that all the Reason and Justice were of the Commons side, yet in a Legislative Capacity they were to consider Circumstances in Relation to the Good of the Publick. Upon this his Lordship said, that in the Transaction of this Affair, there were too great Points gained by this House of Commons.

The first was, that Impeachments made by the Commons in one Parliament, continued from Session to Session, and Parliament to Parliament, notwithstanding Prorogations or Dissolutions.

The other point was, that in Cases of Impeachment upon special matter shown; if the Modesty of the Party Impeach'd directs him not to withdraw, the Lords admit that of Right they ought to order him to withdraw, and that afterwards he must be Committed.

His Lordship observed, that a Member of the House of Commons mentioned the Earl of *Clarendon's* Case; but in regard that Case was general and not special matters shew'd, it was not like this; and therefore he did not understand the Lords intended to extend the point of Withdrawing and Commitment to general Impeachments without special matter alledged; for if it should be otherwise, the Lords did not know how many of their Lordships might be picked out of their House of a sudden.

The Earl of *Shaftsbury* said, that they were as willing to be rid of the Earl of *Danby* as the Commons, and in the first place, as to the Right of the Commons, That upon Impeachments, the Lord Accused ought to Withdraw, and then be Committed; He said their Lordships did agree it was their Right, and well warranted by Precedents of former Ages: And as to the distinction the Lord Privy Seal made, where the Impeachments were General, and when special matter was alledged; He said the Lords gave no Order to make any such Distinction, for that General Impeachments were not in the Case.

And the Duke of *Monmouth* and the Lord *Falconbridge* affirmed the same, and that the Earl of *Shaftsbury* was in the right, and delivered the true sense of the Lords.

He also said, that the Expression which was sent with Reasons from the Lords the other day, viz.

That the Lords would not draw into Example the Proceedings of the Earl of *Danby*, but would vacat them, They intended that to extend only to the point of Not-Withdrawing and Not-Committing.

He likewise declared, that the way now proposed, he thought, would be a means to have the Bill pass; for the Commons might have other Penalties if they would, as Confiscation of Estate: And although they had no particular Order to mention Honours, yet by the general words he thought Honours were included; and if they were insisted on by the Commons, he knew not but that they might be Agreed to be inserted in the Bill.

He desired the Commons would consider, that there were weighty Reasons which were better understood than expressed, that prove it necessary for the Good of the Publick, that this Bill should speedily pass.

The Commons replied, that they hoped their Lordships did not think the Commons did take it, as if they had now gained any point; for that the Points that their Lordships mentioned as gained, were nothing but what was agreeable to the Ancient Course and Methods of Parliaments.

12 Apr. 79. *Post Meridiem*. A free Conference desired by the Commons upon the subject matter of the last free Conference.

Sir *Thomas Moers* Reports, that they had Attended the said free Conference, and left the Bill with the Amendments with the Lords.

14 Apr. 79. *Post Meridiem*. The Lords desire a free Conference upon the subject matter of the last free Conference.

Sir *Francis Winnington* Reports from the free Conference with the Lords, that the same was Managed by my Lord Privy Seal, (viz.) That the Lords hoped that this Conference would be a Concluding Conference, and had agreed to the Bill without any further Amendments, to which they desired the Concurrence of the Commons.

The Commons Agreed to the Amendments made by the Lords, and Sir *Francis Winnington* went up with a Message to Acquaint their Lordships thereof.

16 Apr. 79. A Message from the Lords.

Mr. Speaker, We are Commanded by the Lords to Acquaint this House, that the Earl of *Danby* last Night Rendred himself to the Gentleman Usher of the Black Rod, who brought him this day to the Bar of their House: Their Lordships have sent him to the Tower.

17 Apr. 79. A Committee appointed to prepare and draw up Evidence against *Thomas* Earl of *Danby*, and to draw up further Articles against the said Earl as they shall see cause, and they are to sit *de die in diem*.

25 Apr. 79. A Message from the Lords.

To Acquaint the House, that *Thomas* Earl of *Danby* hath this day appeared in Person at the Bar of their House, and hath put in his Plea to the Articles of Impeachment, which the Lords have sent to this House.

Resolved, that it be referred to the Committee of Secrecy, to Examine the Matter of the Plea of the Earl of *Danby*, and to enquire how Presidents stand in Relation to the Pardon, and in what manner and by what means the same was obtained.

28 Apr.

April 9. 1679.

May 8. 79. *Post Meridiem* A Message from the Lords.

To Acquaint the House that they had demanded of the Earl of *Danby* whether he would Rely upon and Abide by the Plea of his Pardon. And the Earl Answered by word of Mouth only as followeth.

The Plea which I have put in, was put in by the Advice of my Council. And my Council tells me that my Pardon is a very good Pardon in Law, and Advise'd me to insist upon my Plea put in, which I now do, And desire that my Council may be Heard to make out the validity of my Pardon.

May 5. 79. *Resolved*. That it is the Opinion of this House, that the Pardon pleaded by the Earl of *Danby* is illegal and void; and ought not to be allowed in bar of the Impeachment of the Commons of *England*.

Resolved. That the whole House will go up to the Lords Bar, And demand their Judgment against the Earl of *Danby*, for that the Pardon by him pleaded is illegal and invalid and ought not to bar or preclude the Commons from having Justice upon their Impeachment.

Accordingly Mr. Speaker with the whole House went up to the Bar of the Lords House and spake as followeth.

My Lords. The Knights, Citizens, and Burgesses in Parliament Assembled, Are come up to demand Judgment in their own Names, and in the Names of all the Commons of *England* against *Thomas* Earl of *Danby*; who stands Impeacht by them before your Lordships of high Treason and divers high Crimes and Misdemeanors. To which he hath pleaded a Pardon, which Pardon the Commons conceive to be Illegal and Void. And therefore they do demand Judgment of your Lordships accordingly.

May 7. 79. A Message sent from the Lords, to acquaint this House with an Order, yesterday made, concerning the Earl of *Danby*; (*viz.*)

It is ordered by the Lords Spiritual and Temporal in Parliament Assembled, that Saturday next be appointed for hearing of the Earl of *Danby*, to make good his Plea of his Pardon.

May 10. 79. The Lords desire a Conference with this House, to communicate the Contents of a Petition from the Earl of *Danby*.

Sr. John Trevor Reports from the said Conference. That their Lordships had received a Petition from the Earl of *Danby*, who was ordered to attend their Lordships this Day, which his Lordship read. Whereby the Earl of *Danby* sets forth that he had received Informations severally from his Council, that they durst not Appear to Argue the Validity of his Pardon, by reason of a Vote of the House of Commons. And their Lordships desired to know whether there were any such Vote as was alledged in the Petition.

All the VOTES, ORDERS, &c. in the House of COMMONS, in the Late and Present PARLIAMENT, touching the Five LORDS in the Tower.

Impeachments of the House. } **T**he House passed five Resolves for the Impeaching of *Henry* Lord *Arundel* of *Wardour*, *William* Earl of *Powis*; *John* Lord *Bellasis*, *William* Viscount *Stafford*, *William* Lord *Petre*, Of Treason and other high Crimes and Misdemeanors.

The same day the five several Impeachments were accordingly carried up to the Lords.

The same day,

Resolved, That whereas the said Peers are already under Commitment; therefore this House will not desire the Lords that they may be Sequestred from Parliament, and Committed to safe Custody, as is usual in Cases of the like Nature.

The same day a Committee Appointed to draw up Articles of Impeachment against the said Five Lords.

Sabbath 28 Decemb. 1678. The Committee appointed to draw up Articles against the Lords, are to inspect the Journals, and consider Presidents touching Impeachments.

Jois 20 March 1678. A Committee of Secrecy is appointed to take Informations and prepare Evidence, and draw up Articles against the Lords Impeached, and now in the Tower, &c.

The same day, A Committee Appointed to inspect the Journals of the Lords, and see what Resolutions have been there taken in matters of Impeachment.

March 24. Resolved, that an humble Address be made to his Majesty, to desire his Majesty that all the Papers and Writings relating to the discovery of the Plot, and particularly such Papers and Examinations as have been taken since the Prorogation of the last Parliament; may be delivered to the Committee of Secrecy, Appointed to draw up Articles against the Lords in the Tower.

March 27. 79. Sir Thomas Chichly Acquaints the House, that his Majesty had been attended with the Address of this House, and his Majesty returned Answer, that those Papers and Examinations were delivered to the Committee of Lords, and so soon as they were dispatched there, they should be sent to the Committee of Secrecy appointed by this House.

Apr. 3. 79. Mr. Cerebe Reports from the Secret Committee; the Articles of Impeachment against the Five Lords.

Resolved, that the said Articles be Ingrossed.

Apr. 7. 79. The Ingrossed Articles of Impeachment of High Treason, &c. against the Five Lords in the Tower, were read.

Ordered, That the Lord Russell do carry up the said Articles to the Lords.

Apr. 15. 79. Sir Thomas Stringer Reports from the Committee, Appointed to inspect the Journal of the House of Lords; and see what Entries have been made there, touching the giving Copies to the Lords in the Tower of the Evidence against them; that the Committee had prepared a Report which he read as followeth.

That they find that on Wednesday the ninth of April Instant, it is entred in the Lords Journal Book as followeth.

The Lord Chancellor, let their Lordships know, that the House had ordered that the several Indite-ments found against them by the grand Jury, should be brought into the Lords House by *Certiorari*, and that their Lordships may take Copies of the Articles of Impeachment against them.

And that they shall have liberty to search and take out Copies of the Records and Journals in Order to their defence.

Ordered that the Debate hereupon be Adjourned till this day seven Night.

Apr. 16. 79. A Message from the Lords.

Mr. Speaker, The Lords have commanded us to acquaint this House. That the five Lords lately committed to the Tower, have all in Person brought their Answer to the Articles of Impeachment exhibited against them by this House (except my Lord Bellasis) which were read to their Lordships. And their Lordships have sent the Original to this House, to the intent this House may consider of them, and return the same Original with all convenient speed.

A Debate Arising, whether the Lord Bellasis is Actually and Legally Arraigned, having not in person delivered his Answer at the Bar at the House of Lords, to the Impeachment exhibited against him by this House;

Resolved, That the said Debate be adjourned till to morrow Morning.

Ordered that a Committee be appointed to inspect the Journal of the House of Lords, and see what Entries are there made touching the Appearances and Arraignments of the five Lords, now in the Tower and to report, &c.

Apr. 17. 79. Mr. Hampden Reports from the committee appointed to inspect the Lords journal and found there entered as followeth, viz.

Apr. 8. 79. The Earl of Shaftsbury reported from the Lords committee for Priviledges to whom it was referred to consider of the method and progress of the proceedings to be had upon the Try-als of the Lords, now Prisoners in the Tower upon the Impeachments brought up against them, from the house of Commons.

That their Lordships are of opinion, That the Lords now Prisoners in the Tower ought to be brought to the Bar together, and kneel and there stand up and hear the Articles of the Charge against them read.

Other Opinions concerning Council, persons to access have a Lord high Steward. &c.

The Report agreed to and this Order follows.

Whereas William Earl of Powis, William Viscount Stafford, William Lord Petre, Henry Lord Arundel, of Wardour, and John Lord Bellasis now Prisoners in the Tower of London, are Impeached of high Treason, &c. By the Commons in Parliament Assembled, who brought into the House particular Articles against them. It is this Day ordered by the Lords Spiritual and Temporal in Parliament Assembled, That the Lieutenant of the said Tower be and is hereby required to bring the said Earl of Powis &c. In safe Custody to the Bar of this House, to morrow at ten of the Clock in the fore-Noon, to hear the said Articles wherewith they stand charged, and for so doing, this shall be his sufficient War-rant.

April 9. 1679.

They find that the Lord *Powis*, Lord *Stafford*, Lord *Petre*, and Lord *Arundel* were brought to the Bar, and kneeled till the Lord Chancellour bid them stand up; and then the Articles were read to them, and the Lord Chancellour asked them what they had to say for themselves, letting them know, that his Majesty would appoint a Lord High Steward for their Tryals. Then the Lords made several Requests, in order to their defence, upon their Tryals, and then they withdrew: And the House having taken their Requests into consideration, they were called to the Bar again, and the Lord Chancellour let them know, that the House had ordered, that the several Indictments found against the five Lords by the Grand Jury, should be brought into that Court by Writ of *Certiorari*: And that their Lordships may have Copies of the said Articles of Impeachment, and have time given them, to the fifteenth instant, to send in their respective Answers thereunto, with further time to answer to any new Articles that should be brought up, and liberty to take out Copies of Records and Journals, &c.

At the end of which Order, they find it thus entred.

Then notice being taken by the House, that the Lord *Bellasis* had not appeared at the Bar, *Thomas Plessington*, and *Robert Dent*, being sworn at the Bar, attested, that the Lord *Bellasis* is at this present so ill, that he is not able to stir out of his Bed; which reasonable Excuse the House allowing, the said *Thomas Plessington*, on behalf of the Lord *Bellasis*, desired that his Lordship might have a Copy of the Articles, and that Council might be assigned to him; which with the other Requests made by the Lords who appeared, were equally condescended to, for the Lord *Bellasis*, as for the other four Lords.

Then ensues an Order for those five Lords to stand committed to the Tower, in order to their Tryals, and the same access of Persons to them, as before this day.

John Lord *Bellasis* hath order for Sir *Thomas Skipwith* and Mr. *Sanders* to be his Council.

April 15. 1679.

This day being appointed for the Lords, Prisoners in the Tower, to put in their Answers to the Articles of Impeachment against them; which being called for, and not come,

It is ordered, &c. That the Lord of *Powis*, Lord *Petre*, Lord *Stafford*, and Lord *Arundel* of *Wardour*, be brought to the Bar of this House, to morrow at Eleven of the Clock, by the Lieutenant of the Tower, to put in their respective Answers to the said Articles; and this shall be sufficient Warrant on that behalf.

It was moved, That the Lord *Bellasis* his Answer might be received now, in regard of his present Sickness; which the House received, and read.

Ordered, That it be referred to the Committee of Secresie to look into the Answers of the five Lords in the Tower; and they are to consider of the Methods of Proceedings upon Impeachments, and report their Opinions to the House.

April 23. 1679.

Mr. *Treby* Reports from the Committee of Secresie, that the Committee is of Opinion, that the Lord *Bellasis* being Impeached of High-Treason by the Commons, cannot make any Answer but in Person.

That the several writings put in by the other three Lords, which they call their several Pleas and Answers, are not Pleas or Answers, but Argumentative and Evasive, to which the Commons neither can, nor ought to Reply.

That if the Answers of the said Lord *Powis*, Lord *Arundel*, and Lord *Stafford*, as well as that of the Lord *Petre* were sufficient, yet there ought not to be any Proceedings against them, until the Lord *Bellasis* put in a sufficient Answer in Person.

That the Commons do demand of the Lords, that their Lordships would forthwith order and require the said Lord *Powis*, Lord *Stafford*, Lord *Arundel*, and Lord *Bellasis*, to put in their perfect Answers, or in default thereof, that the Commons may have Justice against them.

April 24. 1679.

Ordered, That a Conference be desired with the Lords, touching the Answers of the five Lords in the Tower.

Ordered, That the Managers do acquaint the Lords in the Conference, that this House will make use of no other Evidence against the five Lords, than for matter done within seven years last past, and desire their Lordships to appoint a short day for the said five Lords to put in their Effectual Pleas and Answers to the Articles of Impeachment.

April 25. 1679.

A Message from the Lords. To acquaint the House, that *John* Lord *Bellasis* hath this day appeared in Person at the Bar of the House, and put in his Answer to the Articles of Impeachment, which the Lords have sent to this House.

April 26. 1779.

A Message from the Lords. To acquaint the House, that the Lord *Powis*, Lord *Stafford*, and Lord *Arundel*, have this day appeared at their Bar, and have retracted their former Pleas, and have put in their Answers, which the Lords have sent to this House.

Post Meridiem. The said Answers were read, and referred to the Secret Committee.

April 29. 1679.

Sir *John Trevor* Reports, that he had delivered to the Lords the several Answers of the Lords; and that the Lord Chancellour demanded of him, whether the Commons were ready to joyn Issue.

Whereupon he told his Lordship, that he had nothing of that kind in Command from this House.

Tower shall be brought to their Tryals, upon the Impeachments against them, on this day Seven-night. We are likewise commanded to acquaint you, that the Lords have appointed an Address to be presented to his Majesty for the naming a Lord High Steward, as well in the Case of the Earl of *Danby*, as of the other five Lords; and that the same shall be in *Westminster Hall*.

May 8. 1679.

Reported from the Committee appointed to search Presidents relating to the Message sent from the Lords, That they find, on the like occasion, the House of Commons have appointed a Select Committee to joyn with a Committee of the Lords, to consider of the Methods and Circumstances to be observed in the Tryal.

A Message sent to the Lords, to desire a Conference upon the subject matter of the last Message, relating to the Tryal of the Lords in the *Tower*.

Mr. *Powle* Reports the Reasons to be delivered at that Conference.

The Commons suppose your Lordships do intend in all your proceedings upon the Impeachments now depending before your Lordships, to follow the usual Course and Methods of Parliament; and the Commons cannot apprehend, what should induce your Lordships to address to his Majesty for a Lord High Steward, in order to the determining the validity of the Pardon which hath been pleaded by the Earl of *Danby* to the Impeachment of the Commons; as also for the Tryal of the other five Lords; because we conceive, that the Constituting of a High Steward is not necessary, but that Judgment may be given in Parliament upon Impeachments without a High Steward.

There being several other matters contained in your Lordships Message, touching the Tryals of the Lords impeacht, which if not settled, may occasion several interruptions and delays in the Proceedings.

The House of Commons do therefore propose to your Lordships, that a Committee of both Houses may be appointed to consider of the most proper ways and Methods of proceedings upon Impeachments of the House of Commons, according to the usage of Parliament, that thereby those inconveniences may be avoided.

Post Meridiem.

May 8. 1679.

A Conference is desired with the Lords, upon the subject matter of the last Conference, relating to the Tryal of the Lords; at which Conference the said Reasons were delivered.

May 9. 1679.

A Message from the Lords, to desire a Conference upon the subject matter of the last Conference, concerning the Tryals.

Sir *Thomas Meers* Reports from the Conference, that the Lords do not agree to a Committee of both Houses, because they do not think it conformable to the Rules and Orders of Proceedings of this Court, which is, and ever must be tender, in matters relating to their Judicature.

Post Meridiem.

Resolved, That no Commoner whatsoever shall presume to maintain the validity of the Pardon pleaded by the Earl of *Danby*, without the consent of this House first had; and that the person so doing, shall be accounted a Betrayer of the Liberty of the Commons of *England*.

Resolved, That the Answer delivered by the Lords this day at the last Conference, tends to the interruption of the good Correspondency between the two Houses.

Ordered, That a Conference be desired with the Lords upon the subject matter of the last Conference.

May 10. 1679.

Mr. *Hampden* Reports the Reasons to be offered at the Conference.

The Commons may tend to prevent all interruptions of a good Correspondency between the two Houses, which as the Commons desire at all times on their parts to preserve, so it is especially necessary in this conjuncture, when the most heynous Delinquents are to be brought to Justice, that the Enemies both of King and Kingdom may have no hopes left them to see this obstructed by any difficulties arising in the way of proceedings: Therefore for Answer to the last Conference, the Commons have commanded me to say this to your Lordships, That your Lordships do not offer any Answer or satisfaction to the Commons in their necessary Proposals, amicably offered by way of supposition, that they might have been confirmed therein by Answer from your Lordships: That your Lordships do intend in all your proceedings upon the Impeachments now depending before your Lordships, to follow the usual Course and Methods of Parliament.

And further, that your Lordships have not given the least Answer or satisfaction to the Commons, concerning your Lordships addressing to the King for a Lord High Steward, though the Commons proposed their desire of satisfaction, in as cautious terms as could be, on purpose to avoid all disputes about Judicature.

The Commons, to avoid all interruptions and delays in the proceedings against the Lords Impeacht, and the inconveniency that may arise thereby, having proposed to your Lordships, that a Committee of both Houses may be nominated, to consider of the most proper means and methods of proceedings upon Impeachments, your Lordships without any reason assigned (save only that you say, you do not think it conformable to the Rules and Orders of the proceedings of this Court) have refused to agree with the House of Commons in appointing such a Committee, though not heretofore denied, when askt upon the like occasion; and at this time desired, purposely to avoid disputes and delays.

Therefore the House of Commons have commanded us to acquaint your Lordships, that things standing thus upon your Answer, they cannot proceed in the Tryal of the Lords, before the method of proceedings be adjusted between the two Houses.

May 11. 1679.

The Lords desire a free Conference on the subject matter of the late Conference.

Sir *Thomas Meers* Reports the matter of the free Conference.

Resolved, That a free Conference be desired with the Lords upon the subject matter of the last free Conference.

Sit

Sir Will. Coventry Reports the matter of the free Conference.

The Lords by Message acquaint this House, that they have appointed a Committee of the House of Commons to meet at Nine of the Clock to-morrow morning, at the *Inner Court of Wards*, to consider of Propositions and Circumstances, in reference to the Tryal of the Lords in the *Tower*.

Resolved, That a Committee of twenty four be appointed to joyn with the Committee of the Lords, and to meet at the time and place appointed.

May 15. 1679.

Sir John Trevor Reports from the Committee appointed to joyn with the Committee of Lords, &c.

The Committee had made two Propositions: First, to see the Commission of the Lord High Steward, and other former Commissions.

Secondly, They desired to know what Resolutions had been taken, touching the Lords Spiritual, being present or absent.

As to the first, the Lords acquainted them of an Order made in the House.

May 12. 1679.

It is ordered by the Lords Spiritual and Temporal in Parliament assembled, that the Office of a High Steward, upon Tryal of Peers upon Impeachment, is not necessary to the House of Peers; but that the Lords may proceed upon such Tryals if a High Steward be not appointed.

Their Lordships further declared, that a Lord High Steward was made *hac vice* only; that notwithstanding the making of a Lord High Steward, the Court remained the same, and was not thereby altered, but still remained the Court of Peers in Parliament.

That the Lord High Steward was but a Speaker, or Chair-man, for the more orderly proceedings at the Tryals.

The Commons took Exception at the words in the Commission of the Lord High Steward for the Tryal of the Earl of *Danby*; *Ac pro eo quod Officium Senescalli Anglia (cujus presentia in hac parte requiritur) ut accepimus jam vacat*, and desired that they might be left out; as implying, that the continuing of a Lord High Steward was necessary; and thereupon proposed these words to be inserted (*viz.*)

Ac pro eo quod Proceres & Magnates in Parlamento nostro Assemblat. Nobis humiliter supplicaverunt ut senescallum Anglia hac vice Constitueret digneremur.

To which amendments the Lords did agree: And it was further agreed, that a Commission under Seal for constituting a Lord High Steward for the Tryal of the Earl of *Danby* should be recalled, and a new Commission, according to the said amendment, to be issued, and to bear date after the said Resolution; and that the like Commission should be issued for the Tryal of the other five Lords.

As to the second Proposition, the Lords did communicate the Resolution of the House of Peers, in *hac verba*.

May 13. 1679.

Resolved by the Lords Spiritual and Temporal in Parliament assembled, That the Lords Spiritual have a Right to stay in Court in Capital Cases, till such time as Judgment of Death comes to be pronounced.

May 15. 1679.

The Lords explain the said Resolution, that the Lords Spiritual have a Right to stay and sit in Court, till the Court proceeds to the Vote of Guilty, or not Guilty.

Resolved, That the Committee of this House insist, That the Lords Spiritual ought not to have any Vote in any proceedings upon the Impeachments against the Lords in the *Tower*.

May 17. 1679.

Sir John Trevor Reports the following Resolution.

Resolved by the Lords Spiritual and Temporal in Parliament assembled, that Thursday next be appointed to begin the Tryal of the five Lords in the *Tower*.

After which Resolution past, the Lords Spiritual asked the leave of the House, that they might withdraw themselves from the Tryals of the said Lords, with the liberty of entering their usual Protestation.

Resolved, That it be given as an Instruction to the Committee of this House, to insist upon the former Vote of this House: That the Lords Spiritual ought not to have any Vote in any proceedings against the Lords in the *Tower*; and when that matter shall be settled, and the methods of proceedings adjusted, this House shall then be ready to proceed upon the Tryal of the Earl of *Danby*, against whom the House hath already demanded Judgment, and afterwards to the Tryal of the other five Lords in the *Tower*.

An Abstract of all Proceedings in the House of Peers, in the Case of the Earl of Danby, and the other Five Lords in the Tower; and also their Debates, in relation to the Bishops.

March 1679. Lords Committee appointed to receive all Informations, tending to the discovery of the late horrid Conspiracy, to consider in what Estate the Impeachments brought up in the last Parliament now stand, and to make Report to this House.

March 12. 1679. The Earl of *Shaftsbury* Reports from the Committee appointed to consider the State of the Parliament: That

Decemb. 5. 1678. The Impeachments against the five Lords were brought from the House of Commons, which consisted of a General Charge of Treason, and other high Crimes, the House of Commons declaring, they would in convenient time exhibit the Articles of their Charge against them. *Quare neglect.*

That

might not lye long under it; whereupon it was moved, that the House would consider of the Gentleman's Petition, and the House of Commons concerning his confinement.

Decemb. 27. 1678. It was resolved, That he should not now be confined; and ordered, that he should have a Copy of the Articles, to which he was appointed to bring his Answer before the third of January; and that he should have Council to assist him.

It is also referred to the said Lords Committees for Priviledges, to consider of the state of the Impeachments of the late horrid Conspiracy, and all the incidents relating thereunto, and to report thereunto.

Decemb. 17. The same Order renewed after the Prorogation.

March 18. The Committee reports their Opinion, that the dissolution of the last Parliament doth not alter the state of Impeachments brought up by the Commons the last Parliament.

March 19. 1678. The House agrees with the Committee in that Report.

March 20. 1678. Ordered, that the Earl of *Danby* put in his Answer in writing to the Articles of Impeachment brought up against the Earl of *Danby*, and to desire he may be forthwith sequestred from Parliament, and committed to safe custody.

March 22. 1678. After his Majesties Speech to both Houses, the Lords appointed a Bill to be brought in, that the Earl of *Danby* be made for ever incapable of coming into his Majesties presence, and of all Offices and Employments, and of receiving any Grants or Gifts from the Crown, and of sitting in the House of Peers; and resolved to communicate their Resolutions to the House of Commons at a Conference.

A Message from the House of Commons, to remind them, that they would immediately proceed upon the Impeachments against the Earl of *Danby*, and cause him to be forthwith sequestred from Parliament, and committed to safe custody.

March 24. The Bill for disabling the Earl of *Danby* was received; then ordered, that the Earl of *Danby* be taken into custody of the Black Rod, and brought to the Bar the next morning.

A Message was sent from the House of Commons, That they had by a Question, *Nemine Contradicente*, ordered to demand justice of the Lords, that the Earl of *Danby* may be sequestred from Parliament, and to be committed to safe custody.

The Lords by a Message to the Commons acquainted them, That upon their first Message to this purpose they had ordered the black Rod to take him into custody, and that they thought fit to acquaint the house that they had done this before their last Message to that purpose.

March 25. 1679. The Lords agree with the Commons in the Vote concerning the Plot carryed on by the Papists.

March 25. 1679. Privy Seal's Reasons for his protestations against the Bill for banishing of the Earl of *Danby*.

April the 1st. The Bill of Attainder of the Earl of *Danby* brought up and read the first time.

April the 2d. Read the second time.

April the 3d. Reported from the Committee, and the house agreed with the amendments.

April the 4th. The Bill read the third time, now entituled, *An Act for the Attainder of Thomas Earl of Danby of High Treasons, in case he shall return into, or be found in any of the King's Dominions.*

This Bill was delivered, with Reasons of the Amendments, at a Conference: *vide Journals house of Commons.*

<i>Barkley.</i>	}	<i>Hatton.</i>
<i>Le Ware.</i>		<i>Northampton.</i>
<i>Arundel.</i>		<i>Alesbury.</i>
<i>Byron.</i>		<i>Lindsey.</i>

Dissentientibus.

April. 7. 1679. Articles of Impeachment against the five Lords were brought; hereupon it was ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Lords Committees for Priviledges do consider of the Methods and Progress of the Proceedings to be had upon the Tryals of the Lords upon the Impeachments brought up against them.

April 8. 1679. The Lords Committees report, That the Lords, now Prisoners in the Tower, are to be brought to the Bar together, and kneel there, and then stand up and hear the Articles of the Charge against them read.

That the said Lords may have Council to plead for them in matters of Law, but not in matters of Fact.

That such Council as the Lords shall name to the House shall have free liberty of access to their Lordships, in order to their Tryals.

This Report was read and agreed to; and the Lieutenant of the Tower ordered to bring the said Lords to the Bar of the house the next Morning.

A Conference desired by the Commons upon the Amendments of the said Bill: *vide Journals of the Commons.*

A second Conference held the same day by the desire of the Lords: *vide Commons Journals.*

April 19. 1679. Lord *Powis*, Lord *Stafford*, Lord *Peters*, Lord *Arundel*, brought to the Bar, and the Articles of Impeachment read to them; and being askt what they had to say for themselves, they made several requests in order to their answering their charge, and making their defence.

The

The House consider'd their Request, and Ordered that the several Indictments found against them, and my Lord *Bellasis*, should be brought in by *Certiorari*. And that they may have Copies of the Articles of Impeachment, and time given to Answer the Impeachment to the 15th. and farther time to answer to new Articles; and liberty to search and take out Copies of Records and Journals, and to send for Witnesses; and the Council assigned them that they have named, and the same Order made for my Lord *Bellasis*, who upon Oath was reported sick, and could not come.

A *Certiorari* Ordered to bring in their Indictments.

An Order whereby Council is assigned to the five Lords severally in order to their Defence upon their Tryal, upon the Impeachment of the House of Commons, whereby they are charged with High Treason. And that the said Council have free access from time to time for that purpose.

An Order reciting it is the duty of the whole Body of Peers to attend the Tryals; that therefore the Lord Chancellour to write to every Peer to attend, &c.

April 10. Afternoon.

A free Conference desired upon the Matter of the last Conference.

Mr. *Edward Vaughan* opens the free Conference, urging and reinforcing the Reasons which they had offered at a former Conference, and which the Lords at the last Conference had waved the answering of.

Taking notice that the Reason and Justice being for the Bill as they sent it, they could not yet doubt their Lordships Concurrence in it, these being their only Motives to the passing of the Law; which being occasioned by the parties flight from Justice, and in affront of this highest Court; They hoped their Lordships, who are Judges for the Kingdom; and not only for themselves will follow the example of their Ancestors, and proceed by Rules of Law, which are to guide in passing of Acts of Parliament, as well as in the ordinary courts of Judicature.

Sir *Francis Wennington* spake next, and urged Presidents. *Vide Journal Lords.*

April 10. 1679. A free Conference had at the desire of the Commons upon the Amendments of the Bill of the Earl of *Danby*.

April 10. 1679. Ordered, That an Entry be made of the Journal of this day. The Vote of this House of the 23d. of Decemb. 1678. concerning the Earl of *Danbys* not withdrawing after he had been heard in his place upon the Articles of Impeachment brought up against him from the House of Commons. And the Votes of the 27. of Decemb. 1678. concerning his Lordships not being committed, shall not be drawn into President for the future.

The Opinion of the Judges; That no Prisoners indicted for any Capital Crime, shall have a Copy of the Indictment without Order of the Court. That such a Prisoner cannot of right demand Copies of Information of Witness against them (note that *Oats* and *Bedlows* Informations were entred into the Journal.)

April 12. Another free Conference concerning the Earl of *Danbys* Bill, alledging the Lords Commissions.

April 15. The Lords Ordered to come to the Bar to put in their Answers next morning.

The Lord *Bellasis* Answer received the same day.

April 16. My Lord *Danby* was brought to the Bar, and put in his Answer; and having excused himself for withdrawing, and hoping to clear his Innocence, made several Requests in order to his answering the Charge in making his Defence.

The Lords granted him a Copy of his Articles, and gave him time to put in his Answer, and promised him farther time to answer any new Articles; and assigned him Council, and gave him leave to name other Council, and liberty to explain himself at his Tryal after any words by him then spoken, which he apprehended might be to his prejudice, and then he was committed to the Tower.

April 16. 1679. The other came to the Bar, and put in their Answer.

April 21. 1679. A farther time given the Earl of *Danby* to put in his Answer to the 25th. Instant.

April 24. 1679. A Conference desired by the Commons containing Objections concerning the Pleas and Answers of the four Lords, and requiring my Lord *Bellasis* to appear personally.

April 25. 1679. My Lord *Danbys* Plea was put in.

The same day the Lord *Bellasis* put in an Answer in Person.

April 26. 1679. Lord *Powis*, Lord *Stafford*, Lord *Arundell*, put in their further Answers.

April 28. 1679. The Commons desired the Earl of *Danby* may be sent for to the Bar, to know whether he will rely upon, and abide by the Plea of his Pardon.

April 29. 1679. The Earl of *Danby* being brought to the Bar, said, the Question was new to him, and of great importance, and he knew not how to answer at present, and desired further time to answer, which was granted till Saturday following.

The same day the Indictments found by the Grand Jury against the five Lords were brought into the House.

May 2. 1679. It is Ordered, That on Monday following the House will take into consideration whether the Lords Spiritual ought to Vote in Judicature, in Cases of Blood, and Bills of Attainder.

May 3. 1679. The Earl of *Danby* put in his Answer of abiding by his Plea of his Pardon.

The Plea I have put in, was put in by the advice of my Council, who tell me that my Pardon is good in Law, and advise me to insist upon my Plea put in, which I now do; and desire that my Council may be heard to make out the validity of my Pardon.

Ordered Serjeant *Barrell*, and Mr. *Polluxsein* may be added to the Earl of *Danby* his Council.

May 5. 1679. The House of Commons sent up to demand Judgment against the Earl of *Danby*.

Ordered, That the House will take into consideration whether the Lords Spiritual are to give their Votes in Judicature of Blood, and Bills of Attainder as a Preliminary to the consideration of the Demand of the Speaker of the House of Commons concerning the Earl of *Danby*.

May 6. 1679. The Commons send up their Message that they will, and are ready to make good their Articles in Charge against the five Lords, upon which they were ordered to be brought to their Tryal that day seven-night.

Ordered, That *Saturday* following be appointed for hearing the Earl of *Danby* to make good his Plea.

May 8. 1679. Upon Reading the Petition of *Thomas* Earl of *Danby*, praying that the Order of this House of the sixth Instant made in his Case, which he suggested to be defective as to the assistance of his Council in defence of his Plea, may be explained. It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Council of the said Earl of *Danby* are to attend with him, and be heard in his Defence.

Post Meridiem.

A Conference desired for a Committee of both Houses concerning the Tryal of the five Lords, and the Earl of *Danby*; *Vide* Journal House of Commons.

To adjust the Proceedings in Order to the Tryals of the Lords.

May 9. 1679. An Answer to the Conference. *Vide* Journals House of Commons.

Several Orders touching the Order of the Lords going to *Westminster-Hall*, and bringing the Earl of *Danby* to the Bar, and for keeping distinct Seals for the Members of the House of Commons.

May 10. 1679. Upon Reading the Petition of the Earl of *Danby*, shewing that he is now attending according to their Lordships Order; and expecting to have met his Council assigned by their Lordships for the Defence of his Plea.

That he hath received a Message from every one of them, that they dare not appear to argue for him by reason of a Vote of the House of Commons passed yesterday, whereby the Petitioner is destitute of all Council, and is thereby totally disabled of making his legal Defence; therefore prayeth relief and directions therein.

Ordered, That the Petition be communicated to the House of Commons at a Conference, to know of them whether they have made any such Vote.

Another Conference desired by the Commons upon the Subject matter of the last Conference. *Vide* Journal of the House of Commons.

After which, the Question being put whether a Committee of that House should be appointed to meet with a Committee of the House of Commons, to confer about the Methods and Forms of proceedings in Order to the tryal of the Lords. It was resolved in the Negative *Dissentientibus* fifty.

May 10. 1679. An Order, that there shall be a free Conference had with the Commons, concerning the Forms and Methods of proceedings to be had at the Tryal of the Lords in the *Tower*.

Ordered, that the Managers of the free Conference are not to enter into any dispute about Judicature.

May 11. 1679. The Report from that free Conference was, that the Lords asked the Commons what those Forms and Methods were in reference to the tryals of the Lords in the *Tower*, which they desire to confer about. At which the Commons say, they were not instructed to discourse, because they expected this free Conference was concerning a Committee of both Houses, touching which their Lordships had given them yet no denial. Therefore the Commons said, they must resort to their House for directions herein.

Another free Conference desired by the Commons, whereupon it was ordered that a Committee of that House, be appointed to meet with a Committee of the House of Commons to consider of Propositions and Circumstances in reference to the tryal of the Lords in the *Tower*.

May 12. 1679. From the Committee of both Houses, the Lord President Reports, that the Commons propose, that the Lords would consider of a longer time for the Tryal of the Lords in the *Tower*. This Proposition is agreed to be the last thing considered.

The Report concerning the Lord High Steward omitted.

It is Reported further, That the Commons pray of, and desire to know what Resolution the Lords have taken concerning the Bishops being, or not being at the Tryals of those Lords.

The Commons say, That in the Earl of *Strafford's* Case, the Lords acquainted the Commons, that the Bishops intended not to be at the Tryal.

The Commons think it necessary to know, Whether the Lords intend any new Forms in Tryals upon Impeachments.

They conceive all Tryals upon Impeachments in Parliament, have been by Temporal Lords only.

their Lordships are not to give Judgment, unless the Commons demand it. And the Commons desire to know, Whether the Lords will proceed in these Tryals, as their Lordships did anciently? For if the Bishops should sit upon these Tryals, and the Commons should not demand Judgment, as being dissatisfied with their being there, it may be the Commons may proceed by Bill.

To which the Lords made Answer, That after the Evidence is fully heard, they are bound to give Judgment of Condemnation, or Acquittal; but this being matter of Judicature, the Lords declare That they would impose Silence upon themselves, and debate no further.

The Commons farther desire to know, Whether the Bishops shall be allowed to Vote the Validity of the Pardon of the Earl of *Danby*? For they account that no Preliminary, but the very Essence of the Tryal.

Upon Debate of that part of the Report which relates to the Lords the Bishops, the Question was proposed, Whether the Lords Spiritual had a Right to stay in Court in Capital Cases, till such time as Judgment of Death comes to be pronounced; and was Resolved in the Affirmative.

May 14. 1679. Upon the Lord Presidents Report from the Committee of both Houses, That the Lords had communicated to the Commons yesterdays Vote, concerning the Bishops sitting in Court in Capital Cases, and that the Commons objected, that the Lord High Stewards pronouncing the Judgment of the Court, is in time after all the Lords in the Court have Voted particularly, and consequently the Lords Spiritual may Vote.

The Resolution passed yesterday was explained, That the Lords Spiritual have a Right to stay and sit in Court, till the Court proceeds to the Vote of Guilty, or not Guilty.

May 15. 1679. The Lord President Reports from the Committee of both Houses, That they had communicated the Explanation of the Vote concerning the Bishops; to which the Commons urged, That if the Pardon of the Earl of *Danby* infer Life and Death, it is the same with Guilty, and not Guilty; and being desirous to reduce the Business to a particular, asked, Whether it were intended by that Vote, that the Lords Spiritual should Vote upon the Pardon of the Earl of *Danby*? To which the Lords replied, They had no Instructions to that Point, but would acquaint the House with it.

May 16. 1679. The Lord President Reports from the Committee of both Houses, That the Commons communicated to their Lordships, that yesterday they Reported to their House, the Resolution of the Peers, with the Explanation of them concerning the Lords Spiritual; upon consideration whereof, their House gave them as an Instruction to insist on, That the Lords Spiritual ought not to give any Vote in any of the Proceedings upon the Impeachments against the Lords in the *Tower*. And the Committee declared further, That they know not how to proceed in Capital Matters before a new Court. To which the Lords answered, That they had no Instructions, Power nor Allowance from the House, to debate concerning this matter; desired that if they had any other Proposals to make, they would do it, and that the Lords were ready to debate them. To this the Commons answered, That they think it most proper, that the Propositions already made should be determined, before they make any new ones. And then the Question was put, Whether *Thursday* following should be appointed to begin the Tryal of the Five Lords? And it was Resolved in the Affirmative.

After which Resolutions, the Lords Spiritual asked the Leave of the House, that they might withdraw themselves from the Tryal of the said Lords, with liberty of Entering their usual Protestation.

Ordered, that this Resolution of the House, and Desire of the Lords Spiritual, be communicated to the Committee of the House of Commons to morrow morning.

May 17. 1679. The Lord President Reports, That the Lords had communicated this Resolution and Desire of the Bishops to the Commons, and that the Commons answered, That the Vote of the House of Commons which they acquainted the Lords with yesterday concerning the Bishops, extended as well to the Earl of *Danby*, as the said Five Lords, whereas the Lords Vote relates onely to the Five Lords, and therefore they desire to know what Answer the Lords give as to the Earl of *Danby*.

They further Objected, That they conceived that their Vote was to the Right of the thing, and that the Bishops had no Right to be at any one Vote in any Capital Case, and they conceived the Earl of *Danby's* Case to be a Capital Case, as well as the Cases of the other Five Lords; and that if the Bishops may have leave to withdraw, it implies a Right, which if they have it, is a new Court, which the Commons cannot admit of.

The Lords did then let them know that there is no day yet appointed for the tryal of the Earl of *Danby*, and that the Lords spiritual will be absent at all the parts of the tryals of the five Lords, and that the Protestation they now desire to enter, will be the same as in the Earl of *Staffords* case.

Then the Commons said they could not proceed to treat of any other proposal till such time as the business about the Court be settled.

Ordered by the Lords Spiritual and Temporal, That the Committee for Priviledges search for, and consider Presidents and Waies of Proceedings on the Tryals in Judicature of the Peers, and advise of Directions and Methods fit to be observed therein for the preservation of Order and Regularity in the Tryals of the Lords now appointed, and all circumstances usually arising in such Tryals.

May 19. 1679. The said President Reports, That the Commons insist on their former Votes, that the Bishops ought not to have any Votes, &c. And when that shall be settled, and the methods of Proceedings adjusted, the House will be ready to proceed upon the Tryal of the Pardon of the Earl of *Danby*, against whom they have demanded Judgment, and then to the Tryal of the other Five Lords; upon which the Lords told them, they had no Authority to debate this matter.

The Commons said, the Lords Resolution was no Answer to their Proposition, which comprehended the Earl of *Danby*, as well as the Five Lords. R. The Lords Answer was doubtful. The Bishops asked Leave to be absent, but it appears not that it was granted; if they may ask Leave, and it be not granted, then they may sit in Court at the Tryals. The Bishops absenting by way of Leave, is a strong Implication of a Right asserted; there is the same Reason for the Bishops being absent upon the

of the Pardon, as of the other five Lords, the naming of a day for the Tryal of the five Lords, before the Tryal of the Pardon of the Earl of *Darby*, against whom they have already demanded Judgment, is putting that last, which they desire should be first.

The Lords said, They had no power to debate that. The Commons reply, They are ready to go on, but for want of these Tryals, all Publick Business stands still; but the Lords seem to lay the stop at the Commons door, by naming a day which they conceive ought not to have been appointed, before the methods be considered; for the Lords have not answered the Commons in matters of Right, which is necessary first to be adjusted, and they desire your Resolution as to that matter, for they conceive they have no Right; and the Lords may as well make the Judges part of their Court, as the Bishops in this Point. The Commons will give no disturbance to the ancient Judicature, for they own that to be Sacred, and they conceive they have a Right to know before what Court they shall appear.

May 20. 1679. The House adjourned into a Committee, to consider yesterdays Report; whereupon the House being Resumed, it was Ordered by the Lords Spiritual and Temporal, That *Tuesday* next be appointed for the Tryal of the Five Lords in the *Tower*.

May 21. 1679. Upon reading Reports from the Committee, concerning the Methods of Proceedings, it is Ordered, That an Abstract of so much of the Journal be made, as is necessary to be communicated to the House of Commons, the rest to be for the use of the Chancellor.

Ordered by the Lords Spiritual and Temporal, &c. that Mr. *Poluxsein* be added to my Lord *Strafford's* Council, in order to his Defence upon his Tryal.

May 22. 1679. A report from the Committee of priviledges to be communicated at the Committee of both Houses touching proceedings at the tryals.

There is an order that the Prisoners be brought to the Bar on *Tuesday* next.

May 12. 1679. The Question put, Whether the Lords Spiritual have a Right to stay in Court in Capital Cases, till such time as Judgment of Death comes to be pronounced, which was Resolved in the Affirmative.

Dissentientibus, *Darby, Winchester, Shaftsbury, Huntington, Essex, Clare, Herbert, Stanford, Manchester, Kent, Delamere, Mulgrave, Lovelace, Wharton, Howard, Rockingham, Strafford, Salisbury, North, and Grey de Grey, Hallifax.*

FINIS.